

***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant: Mark Dinsmore  
Title: OPTICALLY DRIVEN  
THERAPEUTIC RADIATION  
SOURCE  
Appl. No.: 10/790,635  
Filing Date: 3/1/2004  
Examiner: Courtney D. Thomas  
Art Unit: 2882  
Confirmation 6536  
Number:

**TERMINAL DISCLAIMER**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Your Petitioner, Carl Zeiss AG, having its principal place of business at Carl Zeiss Strasse 22, Oberkochen, Germany 73447, represents that it is the owner of the entire right, title, and interest in and to U.S. Patent Application Serial No. 10/790,635, filed 3/1/2004, which is a continuation of U.S. Patent Application No. 09/884,561, filed 6/19/2001, by virtue of an Assignment filed and recorded on 02/13/2006, on Reel/Frame 017555/0001, in the United States Patent and Trademark Office. Further, your Petitioner represents that it is the owner of U.S. Patent Application No. 10/481,392, filed 03/23/2006, by virtue of an Assignment filed and recorded on 02/13/2006, on Reel/Frame 017555/0001, in the United States Patent and Trademark Office. A copy of the assignment is attached hereto as APPENDIX A.

Your Petitioner, Carl Zeiss AG, hereby disclaims the terminal part of the term of any patent granted on U.S. Patent Application 10/790,635 which would extend beyond the full statutory term, as shortened by any terminal disclaimer, of any patent granted on U.S. Patent Application 10/481,392, and hereby agrees that any patent so granted on U.S. Patent Application 10/790,635 shall be enforceable only for and during such period that the legal title to any patent granted on U.S. Patent Application 10/481,392 shall be the same as the legal title to any patent granted on U.S. Patent Application 10/790,635, this agreement to run with any patent granted on U.S. Patent Application 10/790,635 and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim any terminal part of any patent granted on U.S. Patent Application 10/790,635, prior to the full statutory term of any patent granted on U.S. Patent Application 10/481,392 as defined in 35 U.S.C. §§154-156 and 173, in the event that any patent granted on U.S. Patent Application 10/481,392 expires for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims canceled by a reexamination certificate or as a result of an interference proceeding, or is otherwise not deemed to provide the rights conveyed by 35 USC §154, prior to the full statutory term of any patent granted on U.S. Patent Application 10/481,392 as defined in 35 USC §§154-156 and 173, except for the separation of legal title stated above. Further, Petitioner does not disclaim any terminal part of a patent granted on U.S. Patent Application 10/790,635 that would extend beyond the present termination of any patent granted on U.S. Patent Application 10/481,392, in the event that such present term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§155, 155A or 156, and without waiving Petitioner's right to extend the term of a patent granted on U.S. Patent Application 10/790,635 to the extent provided by law.

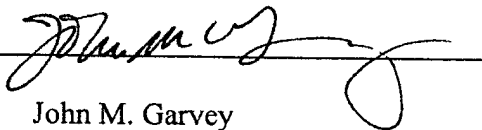
The undersigned, being the Attorney of Record for U.S. Patent Application 10/790,635, and duly authorized to act on behalf of Petitioner, certifies that he has reviewed the

Assignments attached as APPENDICES A and B, and to the best of his knowledge and belief, legal title to U.S. Patent Application 10/790,635 and any patent granted on U.S. Patent Application 10/481,392 rests with Petitioners, Carl Zeiss AG . The undersigned declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing therefrom.

Respectfully submitted,

Date March 2, 2009

FOLEY & LARDNER LLP  
111 Huntington Avenue  
Boston, Massachusetts 02199  
Telephone: (617) 342-4085  
Facsimile: (617) 342-4001

By 

John M. Garvey  
Attorney for Applicant  
Registration No. 37,833